



Public Meetings in Oregon

Legal Requirements & Best Practices



Overview

Legal Requirements

Virtual Meetings

Serial Meetings

OGEC "Training"

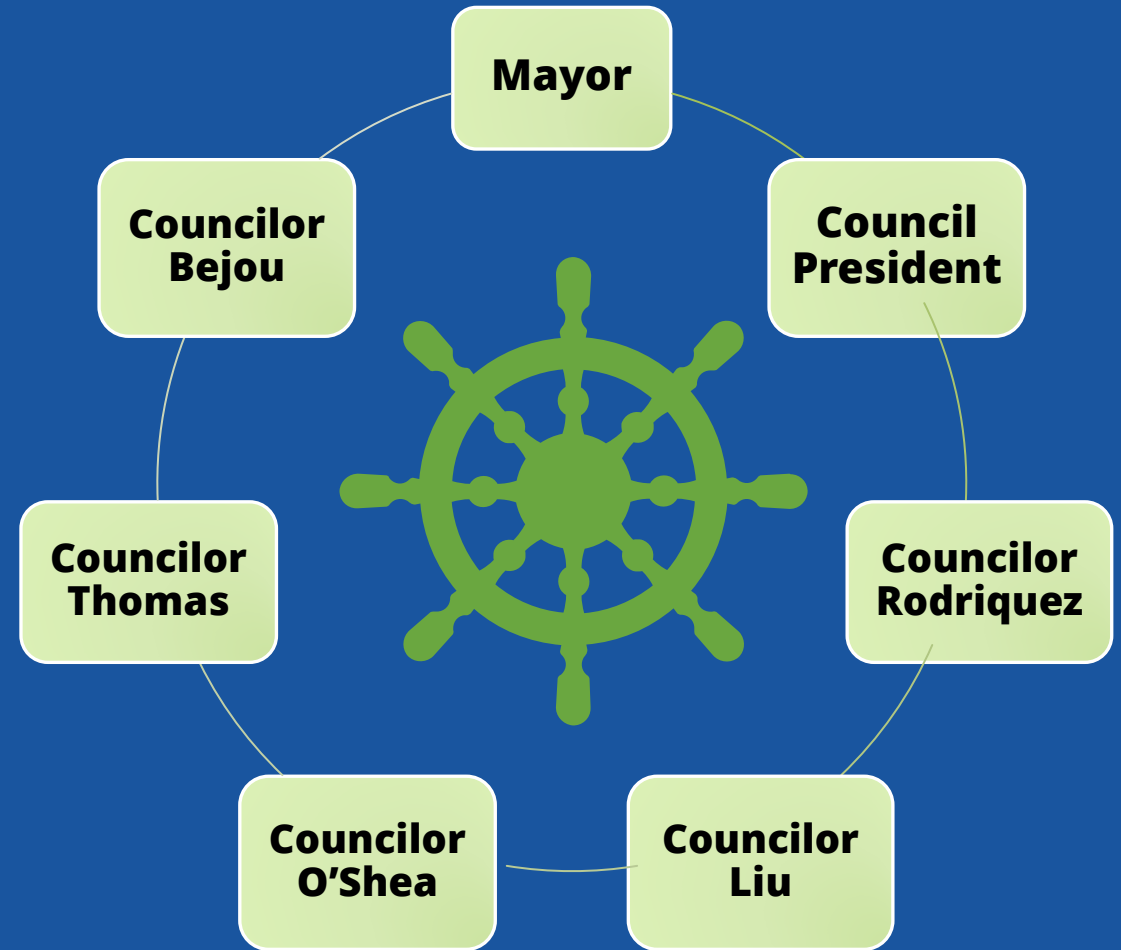
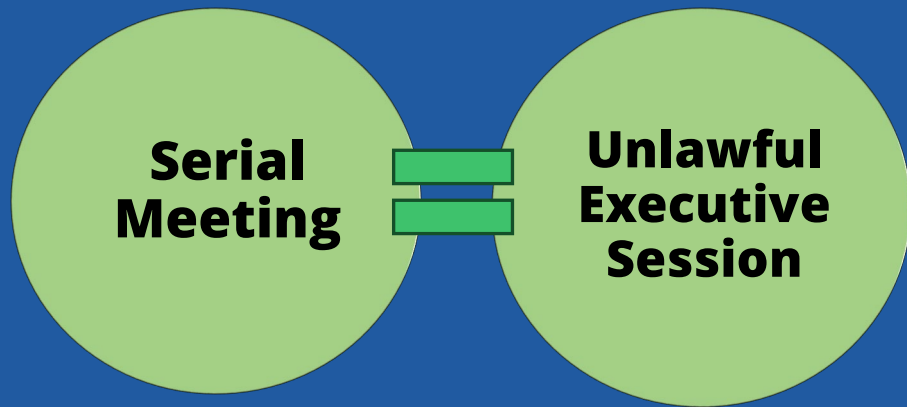
OMPL Grievance Process

Executive Sessions

First Amendment

Best Practices

Serial Meetings



Serial Meeting Law Updates

HB 2805 (2023)

- **Amended language excludes:**
 - **Trainings;**
 - **Non-city business;**
 - **Administrative communications**

Why should you care?

- **ORS 244.350 – Penalty**
- **Up to \$1,000; No indemnity from public body**
- **Advice of counsel defense available**

What can you do?

- **Socialize**
- **Attend educational trainings**
- **Discuss non-city business items;**
- **Use city manager to be the go-between**

Prohibited Conduct

- **Deliberate/discuss city business when quorum + that discussion has not been publicly noticed**
- **No “reply all” on city business emails**

HB 2805 "Training"

ORS 192.700(2)(a): 'Every member of a governing body of a public body with total expenditures for a fiscal year of \$1 million or more shall attend or view training prepared under this section at least once during the member's term of office and shall verify the member's attendance using the method prescribed by the commission.'

→ OGEC approved training request:

<https://www.oregon.gov/ogec/training/Pages/On-Site-Training-Request-Form.aspx>

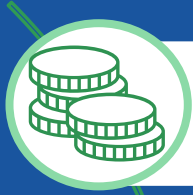


"Grievance Process"

- 1. Grievance filed, in writing, with public body within 30 days of alleged issue.**
- 2. Acknowledge and respond to both person and OGEC via email within 21 calendar days:**
 - Deny allegations
 - Admit allegations/deny violation, or
 - Admit allegations, admit violation, and cure violation
- 3. Complaint filed with OGEC:**
 - Grievance + response is condition for filing OGEC complaint
 - OGEC will dismiss complaint if no grievance.

Current Rulemaking ongoing --- more to come.

What Happens if a Public Meeting Does Not Comply with OPML?



Fines are against individual city officials



Advice of your city attorney may provide safe harbor



OGEC hears complaints, renders decisions about ethics, executive sessions, public meeting laws



HB 4117 (2024) expanded OGEC authority to all public meetings

What is an Executive Session?

Any meeting, or part of any meeting, of a public body which is closed to certain persons for deliberation on certain matters permitted by law



Notice Must List Statutory Authority for the Meeting



The News Media Has the Right to be Present



Final Decisions are Prohibited



All the Legal Requirements Applicable to a Regular Meeting Still Apply

Reasons to Hold Executive Sessions

To consider the employment of a public officer, employee, staff member

◆ **CANNOT USE:**

- ◆ **To fill a vacancy of elected office or for public committees, commissions or advisory groups**
- ◆ **To consider general employment practices**
- ◆ **Discuss salary**



4 STEPS

FOR CONSIDERING EMPLOYMENT IN EXECUTIVE SESSION

When you can hold an executive session for hiring?

A governing body of a public body can meet in executive session to talk about hiring a public officer, employee, staff member or individual agent. Statutes can be found in ORS 192.660(2)(a) and ORS 192.660(7)(d)(A-D).

BEFORE you can discussing hiring in executive session, the governing body must take the following steps:

- | | | |
|---|--|---|
|  | Advertise the Vacancy
The public body must advertise the vacancy. | 1 |
|  | Adopt Hiring Procedures
The public body must adopt regular hiring procedures. | 2 |
|  | For Chief Executive Officer
Governing body adopts the following at a public meeting where public has opportunity to comment:
a. Hiring standards (example: DAS hiring practices)
b. Criteria (example: position description)
c. Policy directives (example: agency/position goals) | 3 |
|  | For an Officer
Public has opportunity to comment on the employment of the individual officer.

(Examples: Stakeholder meetings, candidate meet and greets) | 4 |
|  | In executive session you cannot discuss:
a. Filling an elected position when it becomes empty.
b. Filling a vacancy on any public committee, commission or other advisory group.
c. Discussing general employment policies.
d. Discussing an officer's salary when hiring them.
e. Making a final decision. A governing body must return to a public meeting before taking a final action. | |

Governing bodies are responsible for complying with notice requirements for any public meetings and executive sessions.
Oregon Government Ethics Commission 2023

Chief Executive Officers



Reasons to Hold Executive Sessions

To conduct employee evaluations only if the employee does not request an open hearing.



Reasons to Hold an Executive Session

To consider dismissal or discipline of, or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, unless the person requests an open hearing.



Reasons to Hold Executive Sessions



To conduct labor negotiations or discuss labor negotiations with a negotiator

To discuss real estate transactions with a negotiator

Reasons to Hold Executive Sessions



To review or approve of programs relating to security of telecommunications, data transmissions, power storage, hazardous material transport.

Reasons to Hold Executive Sessions



To consider information or records that are exempt by law from public inspection.



To consult with your attorney regarding “current litigation or litigation likely to be filed.”



To conduct trade negotiations where the city is competing with governing bodies in other states.

What Happens if a Prohibited Executive Session is Held?

The Oregon Government Ethics Commission (OGEC) hears complaints and renders decisions about allegations of impermissible executive sessions.



Fines are against individual city officials.



Advice of your city attorney may provide safe harbor.

Public Comment

Can the Public Participate in Meetings?



**OPML only requires
public attendance**

**Not public
participation**

**Exceptions: land
use and budget
hearings**



**City's governing
documents may require
both public attendance
and public participation**

**Check your charter,
ordinances, rules of
procedure**



1.02.090 Public Comment

A.

Citizen and community group sign-up forms will be available at each regular business meeting. At the time on the agenda designated for public comment and during any public hearing, any member of the public desiring to address the Council must first request to be recognized by the Mayor and then state their name and address for the record. The Council may set time limits for comments. The Council may request that groups with like comments choose a spokesperson to present joint remarks.

B.

During public meetings, all public comments should be directed to the question under discussion and addressed to the Mayor representing the Council as a whole.

C.

In general, Councilors will not respond to comments made during the public comment agenda time, except to ask clarifying questions. Any public requests for Council action will be referred to staff and reviewed before placing on a future agenda.

Public Comment = Protected Speech

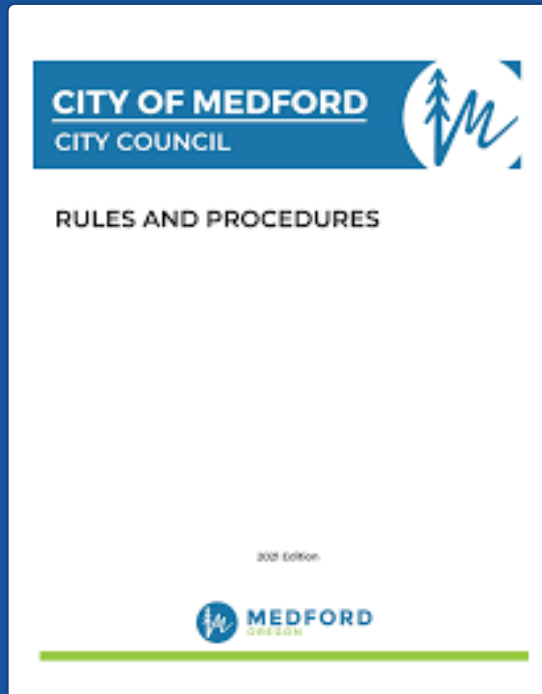
U.S. Constitution

- **Personal liability**
- **Content-Based restrictions permissible**

Oregon Constitution

- **Personal liability**
- **Content-Neutral restrictions permissible (more restrictive)**

Time, Place, Manner Restrictions



Dictate the time for public comment.



Dictate the location where public comment is made.



Limit the topic of the comment – CAREFUL



Dictate the length of time for public comment



All speakers treated EQUALLY.

Can We Remove People From Public Meetings?



Actual disruption required



Offensive conduct insufficient

Can We Arrest People Who Disrupt Public Meetings?

Yes

Law enforcement determines if Disorderly Conduct crime elements are met

Individual cannot disturb lawful assemblies, like a city council meeting



**Can We
Suspend
People
From
Attending
Future
Council
Meetings?**

Probably Not

Public Safety Concern, maybe

**Contact city attorney
and CIS**

Best Practices



Establish (and Follow) Procedures

**Adopt Rules
of
Procedure**

**Consistently
Enforce**

**Applies to
Elected,
Staff, Public**

**Set Agenda-
Setting
Policy**

**Adopt Public
Comment
Procedures**

Public Comment: Common Procedures

The chair begins the public comment period by reading the Council's rules related to public comment.

Utilize sign-in sheets.

Council members should listen during public comment, and not engage with the public.

If councilors have questions from public comment, Council may direct staff to further investigate into the issue.

Any
1.1
Questions